

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY A. PATE,

Plaintiff, No. CIV S-04-1201 FCD DAD P

vs.

SACRAMENTO COUNTY
SHERIFFS DEPUTIES,

Defendants. ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has paid the filing fee.¹

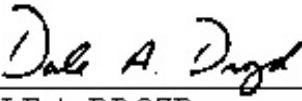
On November 15, 2005, the court ordered plaintiff to file his proof of service reflecting that service had been completed on defendant Garcia, the sole defendant in this action, or to show cause why service has not been completed. On January 5, 2006, the court provided plaintiff with an additional fifteen days to file his proof of service. Alternatively, the court

¹ On November 24, 2004, plaintiff paid the \$150.00 filing fee. However, on August 24, 2006, \$350.00 was submitted to the court as an additional filing fee. Plaintiff is advised that the filing fee for this case is \$150.00 and he may request a refund from the Financial Office of this court. Plaintiff should provide the case file number, the name of the person who should receive the refund and the mailing address.

1 informed plaintiff that if he submitted an application requesting leave to proceed in forma
2 pauperis and the application was granted, the court would order the U.S. Marshal to serve
3 process on defendant Garcia. Plaintiff has submitted neither the proof of service nor a proper
4 application to proceed in forma pauperis.² Therefore, the court will again order plaintiff to file
5 his proof of service reflecting that service on defendant Garcia has been completed. If service
6 has not been completed, this action will be dismissed pursuant to Rule 4(m) of the Federal Rules
7 of Civil Procedure.

8 Accordingly, IT IS HEREBY ORDERED that within twenty days from the service
9 of this order, plaintiff shall file his proof of service reflecting that defendant Garcia has been
10 served with the summons and second amended complaint. Failure to comply with this order will
11 result in the dismissal of this action pursuant to Rule 4(m) of the Federal Rules of Civil
12 Procedure.

13 DATED: September 8, 2006.

14
15 
16 DALE A. DROZD
17 UNITED STATES MAGISTRATE JUDGE
18
19
20
21
22
23
24

25 DAD:4
26 pate1201.pos2

27 ² On July 5, 2006, plaintiff filed a letter to the court indicating that his mother would be
28 submitted the \$350.00 filing fee. Attached to the letter was a trust account statement and the
29 second page of the in forma pauperis application.